

1                                   BEFORE THE  
2                                   ILLINOIS COMMERCE COMMISSION  
3                   WILLIAM O. HAAG, III                                   )   DOCKET NO.  
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7                   ILLINOIS POWER COMPANY                               )  
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11                   Complaint as to billing/charges in                   )  
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1 APPEARANCES: (Cont'd)

2 MR. MATTHEW R. TOMC  
3 Corporate Counsel  
4 1901 Chouteau Avenue, Mail Code 1310  
5 St. Louis, Missouri 63166  
6 Ph. (314) 554-4673  
7 E-mail: mtomc@ameren.com

8 (Appearing on behalf of AmerenIP  
9 via teleconference)

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PROCEEDINGS

JUDGE TAPIA: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 07-0517. This docket was initiated by Mr. William Haag which concerns a complaint against Illinois Power Company doing business as AmerenIP regarding an allegation that the complainant was improperly billed from May 22 to June 20 of 2007 due to a malfunctioning meter.

Mr. Haag, if you can please state your name, address and phone number and e-mail address if you have one for the record, please?

MR. HAAG: Sure. It is William O. Haag, III. My address is 3722 Red Brick Lane, that's three words, Columbia, Illinois 62236. My phone number is (618) 281-8563, and my e-mail address is william.haag@jacobs.com.

JUDGE TAPIA: Thank you. And if I may have the appearances for the record from the company respondent, please?

MR. TOMC: Yes, Your Honor, my name is Matthew R. Tomc. My last name is spelled T-O-M-C, on behalf

1 of the Illinois Power Company doing business as  
2 AmerenIP. My address is 1901 Chouteau Avenue, Mail  
3 Code 1310, St. Louis, Missouri, 63166. My phone  
4 number is area code (314) 554-4673, and my e-mail  
5 address is mtomc@ameren.com.

6 JUDGE TAPIA: Thank you. Is there anyone else  
7 who would like to enter an appearance at this moment?  
8 Hearing nothing, I will let the record reflect that  
9 there is no others wishing to enter an appearance.

10 Prior to getting on the record the  
11 respondent Mr. Tomc filed a motion pro hac vice to  
12 appear in this matter. Is there any objection from  
13 Mr. Haag?

14 MR. HAAG: No, ma'am.

15 JUDGE TAPIA: Okay. And I am familiar, Mr.  
16 Tomc, you have appeared before our administrative  
17 agency court?

18 MR. TOMC: Yes, I have, Your Honor.

19 JUDGE TAPIA: I will go ahead and grant the  
20 motion.

21 MR. TOMC: Thank you, Your Honor.

22 JUDGE TAPIA: You are welcome. The purpose of

1     this preconference hearing is to clarify the  
2     complainant's formal complaint. It appears in the  
3     remedies that he is asking for that he would like  
4     future budget bill amounts which is unclear to me and  
5     is also unclear to the respondent. Mr. Haag, if you  
6     can explain that a little further?

7             MR. HAAG: Yes, Your Honor. There are two  
8     parts to that request, actually, but they are  
9     related. For the billing period in question, we were  
10    billed for 12,820 kilowatt hours, and I believe that  
11    is approximately 10,000 kilowatt hours greater than  
12    our actual usage, and my ballpark estimate of that  
13    value was roughly a thousand dollars. And that  
14    affects our budget bill amount. We are on budget  
15    billing which means we pay a fixed amount every  
16    month. That affects our budget billing in that that  
17    12,820 kilowatt hour billing period artificially  
18    increases our total usage. And the budget bill  
19    amount is determined based on our overall usage for,  
20    I guess, a 12-month period.

21             And so I would like to -- I dispute  
22    the amount of the meter reading for that billing

1 period and then that in turn, if I were to prove my  
2 side of the story, that in turn would have an effect  
3 on our budget bill amount because that essentially  
4 took out roughly a thousand dollars from our account  
5 and applied it towards that one month of alleged  
6 usage. Does that make sense?

7 JUDGE TAPIA: It makes a little sense. But let  
8 me ask Mr. Tomc, do you have any questions for the  
9 complainant, Mr. Haag?

10 MR. TOMC: No, Your Honor, I believe that  
11 clarified what we were looking for, and I think at  
12 this point AmerenIP would be prepared to file an  
13 answer to the complaint.

14 JUDGE TAPIA: Okay. And before I set the  
15 schedule for the answer to be filed, Mr. Haag, will  
16 you be representing yourself?

17 MR. HAAG: Yes, I will.

18 JUDGE TAPIA: And just so -- I just want to  
19 make sure you understand that you are held to the  
20 same standard as opposing counsel. You are aware of  
21 that, right?

22 MR. HAAG: I am, Your Honor.

1 JUDGE TAPIA: And then you have the burden to  
2 prove your case.

3 MR. HAAG: I understand that.

4 JUDGE TAPIA: Okay. Thank you, Mr. Haag.

5 Mr. Tomc, could you file the answer  
6 within ten days?

7 MR. TOMC: Yes, Your Honor.

8 JUDGE TAPIA: Okay. So the answer will be  
9 filed to the complaint within ten days.

10 Discovery requests, if the parties can  
11 exchange discovery requests, well, why don't we  
12 decide now how long. I don't think there is much  
13 discovery, is there?

14 MR. TOMC: Your Honor, I wouldn't suspect so.  
15 I think in my experience it might be more -- it might  
16 be beneficial to set the discovery cutoff relative to  
17 when we file the direct and responsive testimonies.  
18 That way we could ask each other questions about what  
19 is in our testimony.

20 JUDGE TAPIA: So what date do you suggest?  
21 And, Mr. Haag, if you would like to respond after Mr.  
22 Tomc has been given an opportunity. Mr. Tomc, how



1 much time do you think?

2 MR. TOMC: If we are going to go ten days,  
3 let's see, if we go ten days from today for the  
4 answer, that will take us, I think, to have, if  
5 Mr. Haag had his testimony filed by the beginning of  
6 January and then we would probably want to have our  
7 response testimony filed by the end of January, I  
8 would think that we would want the discovery cutoff  
9 period to be sometime mid February.

10 So I would suggest, if that would be  
11 the procedural schedule, that we could have discovery  
12 filed around February 15 which is a Friday.

13 JUDGE TAPIA: 15th for discovery cutoff?

14 MR. TOMC: Yes.

15 JUDGE TAPIA: Mr. Haag?

16 MR. HAAG: That's satisfactory with me, Your  
17 Honor.

18 JUDGE TAPIA: Okay. And so the answer will be  
19 filed within ten days which takes us -- Mr. Tomc, you  
20 are going to have to help me here.

21 MR. TOMC: I don't have a calendar in front of  
22 me. Today is the 30th. The 10th would be December

1 10.

2 JUDGE TAPIA: We could say the 14th of  
3 December. That gives you 14 days basically.

4 MR. TOMC: That works, Your Honor.

5 JUDGE TAPIA: Okay. So the answer will be due  
6 on December 14. Discovery to be cut off will be  
7 February 15 and the parties will file -- well, let  
8 me, Mr. Haag, since you are representing yourself, do  
9 you feel comfortable with the prefiled testimony?

10 MR. HAAG: Well, Your Honor, I am actually not  
11 a hundred percent sure what prefiled testimony is.

12 JUDGE TAPIA: Mr. Tomc, I want to get input  
13 from both parties for it to be adequately fair.

14 MR. TOMC: Your Honor, based on my experience  
15 in other complaint cases, if Mr. Haag has his  
16 prefiled -- if it will be easier for him to make his  
17 prefiled testimony in the form of a letter, that  
18 would be okay, too. Of course, it is always  
19 preferable to do it in the question and answer type  
20 format that is traditionally used, but I can respond  
21 in letter form, too.

22 JUDGE TAPIA: Attached with supporting

1 documents. Mr. Haag, do you understand that?

2 MR. HAAG: I believe so. I would -- if I

3 understand it correctly, in a letter form I would

4 outline my case and facts and submit that to you.

5 JUDGE TAPIA: Yes, well, to all parties.

6 MR. HAAG: To all parties.

7 JUDGE TAPIA: And to Mr. Tomc, everyone on the

8 service list as well as myself.

9 MR. HAAG: Okay. Yes. And then I would be

10 responded to in a letter form as well.

11 JUDGE TAPIA: Well, in a pleading form from Mr.

12 Tomc.

13 MR. HAAG: Okay.

14 MR. TOMC: Yes, I would respond in a

15 traditional testimony format.

16 JUDGE TAPIA: Right. Mr. Haag, were you

17 planning or wanting an evidentiary hearing with

18 witnesses? I mean, do you have witnesses?

19 MR. HAAG: I have a question about that,

20 actually. I have a telephone conversation record

21 with one of the Ameren employees who came out and

22 inspected the meter, and I didn't know if I could

1 submit the telephone call record or written record as  
2 testimony or if he would need to be there. And I  
3 also would like to ask the meter reader, or readers,  
4 a few questions as well.

5 JUDGE TAPIA: Mr. Tomc, any response?

6 MR. TOMC: In terms of the phone record, if  
7 Mr. Haag wishes to attach that to his letter, we can  
8 address those documents.

9 MR. HAAG: Okay.

10 MR. TOMC: Accordingly. Or if he wants to  
11 introduce testimony from a separate person, we can  
12 address it that way as well.

13 JUDGE TAPIA: Okay, very well. Then I think  
14 that will work. Mr. Haag, do you have any questions  
15 in regards to that?

16 MR. HAAG: I don't think so. So the telephone  
17 record is satisfactory.

18 Now, if I wanted to speak to the meter  
19 reader, if we could handle that the same way, with a  
20 telephone record, is there a way that that can be  
21 arranged versus taking time out of their day to  
22 actually, you know, give testimony?

1 JUDGE TAPIA: Mr. Tomc, a response? See, this  
2 is when we start getting -- it starts getting a  
3 little complicated, Mr. Haag, and I apologize because  
4 that's when it starts getting a little complicated  
5 when someone is not represented.

6 Mr. Tomc, what is your response?

7 MR. TOMC: Your Honor, I am sorry, I didn't  
8 catch what Mr. Haag said.

9 JUDGE TAPIA: Okay. Mr. Haag, if you can  
10 repeat that?

11 MR. HAAG: Sure. I was hoping to get an  
12 opportunity to talk to the person or persons who read  
13 my meter, and I was wondering if it would be possible  
14 to arrange for that. And I could submit that  
15 telephone record or that conversation record in a  
16 written form as well. However, if you would rather  
17 that that occur at the evidentiary hearing as  
18 testimony, I am okay with that as well.

19 MR. TOMC: Well, let me respond like this, Your  
20 Honor. I think, first of all, there are some  
21 questions -- and this is the complication in working  
22 when you have a per se litigant -- is that some of

1     these questions are really as to what the proper  
2     procedure or proper method of introduction of certain  
3     type of evidence would be.  So to a certain extent I  
4     can't answer that, those questions, by responding  
5     with legal advice.

6                     However, I will say that when we  
7     respond to Mr. Haag's direct testimony, the response  
8     that we will have will be from Ameren personnel that  
9     are knowledgeable in the areas of meter reading and  
10    customer service.  And so they may be able to respond  
11    to Mr. Haag's questions at the hearing.

12                    But I can't, I do want to reiterate, I  
13    cannot, you know, give advice or explanation as to  
14    what's the proper procedure for admitting certain  
15    types of evidence.

16                   JUDGE TAPIA:  Right, right.

17                   MR. HAAG:  Okay.

18                   JUDGE TAPIA:  Mr. Haag?

19                   MR. HAAG:  In that case I will just be  
20    submitting my letter stating the facts and  
21    circumstances of the case along with the one  
22    telephone call record, and I will save my questions

1 regarding the meter reading for the hearing.

2 JUDGE TAPIA: For the cross examination?

3 MR. HAAG: Yes, yes.

4 JUDGE TAPIA: Anything, Mr. Tomc, anything in  
5 response to that?

6 MR. TOMC: No, I have no response to that.

7 JUDGE TAPIA: Then we will go ahead and  
8 schedule again the answer for February, I am sorry,  
9 December 14. That's when the respondent will answer,  
10 file their answer. February 15 will be the discovery  
11 cutoff. And then we will set it for a hearing, an  
12 evidentiary hearing, how many -- 30 days, Mr. Haag,  
13 Mr. Tomc?

14 MR. HAAG: That's fine with me, Your Honor.

15 MR. TOMC: From February 15 so that would be  
16 approximately March 15.

17 JUDGE TAPIA: The week of March 10 through the  
18 14th. The 14th is on a Friday. So the week of the  
19 -- or that week which is convenient for both of you.

20 MR. HAAG: Friday afternoon would be the most  
21 convenient for me, Your Honor. That would be the  
22 14th.

1 JUDGE TAPIA: Okay. Mr. Tomc, how does your  
2 schedule look like?

3 MR. TOMC: Well, Friday the 14th, the  
4 afternoon, would be available to me. I would prefer  
5 it be earlier in the week if possible.

6 JUDGE TAPIA: Mr. Haag, is there any day you  
7 can do it earlier during the week or is it that  
8 Fridays are your only available days?

9 MR. HAAG: They are not the only available.  
10 They are preferable to me. We could do it earlier in  
11 the week, an afternoon if possible, though.

12 JUDGE TAPIA: Mr. Tomc?

13 MR. TOMC: Your Honor, I would suggest then  
14 Wednesday, March 12.

15 MR. HAAG: That will be fine.

16 JUDGE TAPIA: In the afternoon, Mr. Haag?

17 MR. HAAG: Yes, 2 o'clock would be fine with  
18 me.

19 JUDGE TAPIA: Mr. Tomc?

20 MR. TOMC: That's fine with me, Your Honor.

21 JUDGE TAPIA: Okay. So we will set the  
22 evidentiary hearing on March 12 of 2007 -- I am



1     sorry, 2008 at 2:00 p.m.

2                     Anything else we need to discuss,  
3     Mr. Haag?

4             MR. HAAG: I just want to be clear. After  
5     Ameren files their response by December 14, then I  
6     will submit to everyone my letter outlining facts and  
7     so on, is that correct?

8             JUDGE TAPIA: Yes. However, discovery -- you  
9     can request any discovery requests from the  
10    respondent and they can do the same to you. Do you  
11    understand?

12            MR. HAAG: Yes, I do.

13            JUDGE TAPIA: So any documents that you need  
14    from them, they will provide you and then you  
15    exchange discovery.

16            MR. HAAG: Okay.

17            JUDGE TAPIA: And then the direct testimony --  
18    I am sorry, yeah, the testimony will be -- when did  
19    we decide, Mr. Tomc? Help me out a little bit.

20            MR. TOMC: Your Honor, I don't think we  
21    actually set the date for the direct testimony and  
22    the responsive testimony and then the rebuttal

1 testimony. We started talking about discovery. My  
2 comment was that it was relative to when the  
3 testimony was due.

4 JUDGE TAPIA: Okay. So let's set it now. I  
5 want to make sure that I understand how we will go  
6 about this case since each complaint case is done  
7 differently.

8 The direct testimony will be filed by  
9 both parties, correct?

10 MR. TOMC: Yes, Your Honor.

11 MR. HAAG: Yes.

12 JUDGE TAPIA: And it should be filed, of  
13 course, after February 15 when discovery is cut off.

14 MR. TOMC: Well, actually, Your Honor, that was  
15 kind of the point I had earlier. I was wondering if  
16 we could schedule direct testimony for both parties  
17 before the end of the cutoff. That way we can ask  
18 each other questions about information that appears  
19 in our testimony.

20 JUDGE TAPIA: Okay. And what date do you  
21 suggest? And, Mr. Haag, of course, you can jump in.

22 MR. HAAG: Sure.

1 JUDGE TAPIA: In January?

2 MR. TOMC: I would suggest a date for Mr.

3 Haag's direct testimony to fall somewhere at the

4 beginning of the month of January.

5 JUDGE TAPIA: Mr. Haag?

6 MR. HAAG: That's fine with me, Your Honor.

7 JUDGE TAPIA: Okay. And what is sufficient

8 time? Mr. Tomc, if you can put what your experience,

9 what would you say?

10 MR. TOMC: I would say if Mr. Haag could file

11 his direct testimony by Friday, January 4, and then

12 Ameren would file our direct testimony by January 25,

13 that would give three weeks between -- well, two to

14 three weeks in between those days. Would that work

15 for the tribunal and Mr. Haag?

16 MR. HAAG: That's fine with me.

17 JUDGE TAPIA: Okay. Then we will go ahead and

18 do that. Those will be the dates. January 4 would

19 be the direct testimony to be filed by Mr. Haag.

20 January 25 Mr. Tomc, the respondent, can respond to

21 direct testimony on that day. The cutoff will be

22 February 15.

1                   Anything else? Is there anything else  
2   that we need to discuss? Mr. Haag?  
3           MR. HAAG: No, Your Honor.  
4           JUDGE TAPIA: Mr. Tomc?  
5           MR. TOMC: No, Your Honor.  
6           JUDGE TAPIA: Okay. Do we have all the dates  
7   that we need? I believe we do. Mr. Tomc, if you  
8   could be so kind to send an e-mail to myself as well  
9   as to Mr. Haag just memorializing these dates? I  
10   will also put it in my report for today's hearing,  
11   but so that we have it all, we are all on the same  
12   page.  
13           MR. TOMC: Yes, Your Honor, I will send an  
14   e-mail to all the parties.  
15           JUDGE TAPIA: Okay. And, Mr. Haag, any  
16   questions?  
17           MR. HAAG: Not at this time, Your Honor.  
18           JUDGE TAPIA: Okay. If there is nothing  
19   further, we will go ahead and continue this case to  
20   the next hearing which will be the evidentiary  
21   hearing which is to be scheduled March 12, 2008, at  
22   2:00 p.m.

1                   Anything further from any of the  
2 parties?

3           MR. HAAG: No, Your Honor.

4           JUDGE TAPIA: Thank you both. We will end the  
5 record.

6                   (Whereupon the hearing in this  
7 matter was continued until March  
8 12, 2008, at 2:00 p.m. in  
9 Springfield, Illinois.)

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